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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 244 OF 2006

Khatal Ahmed M. Qaseem Dandu ... Petitioner
Vs.
State of Mah. and Ors. ... Respondents

Mr. R.K. Mendadkar for Petitioner.

Mrs. M.P. Thakur, A.G.P. for R. Nos. 1 and 2.

CORAM: F.I. REBELLO &
S.J. VAZIFDAR,JJ.
DATED: FEBRUARY 05, 2007

P.C.:

. Rule. Heard forthwith.

. The Petitioner by the present petition impugns the order dated 12.12.2005 of scheduled tribe caste Scrutiny Committee Pune whereby the Petitioner's claim as belonging to Koya S.T. has been rejected.

. The Petitioners submits that two vital documents being the primary school record of Petitioner's father showing the petitioners' caste as "Muslim Koya" has not been considered. The Petitioner's father was admitted in the school on 9.3.1932. The committee has not at all dealt with the said aspects in its order. However, in the affidavit filed before this court, it is sought to be contended that during the vigilance enquiry report, they sought for the said documents. However, the birth extract was

not forwarded. The second contention is that the primary school of the Petitioner’s aunt which also shows him as Muslim Koya was produced and the same was not considered. We find no mention of the same in the impugned order. The Petitioner has not made any reference to that document in the petition. However, these documents were before the Scrutiny Committee.

. The Petitioner had earlier approached this court as his claim has been rejected. The matter was remanded for fresh consideration by the committee as it appears that earlier his claim was rejected on the ground that he professes faith in the Muslim religion. In so far as S.T. is concerned, it is immaterial as what faith the person may claim unlike in S.C.

. According to Petitioner, even report submitted by the Vigilance cell dated 7.3.2005 has not been considered. From the impugned order of the committee, it is clear that the enquiry report was forwarded to the Petitioner. The record also indicates that his tribe claim was considered with reference to information regarding traits and characteristics of the community. Reference is then made to the information given by the Petitioner. at the personal hearing where it is noted that the

Petitioner is not aware of the social customs and traditions of the Koya community. This material prima facie would be against the Petitioner. That aspect would have to be considered in the context of conversion to Islam and far back in times his ancestor's converted. The case of the Petitioner still is that the committee also has not considered the enquiry report.

. Considering the above, we propose to dispose of the Petition by passing the following order :

(1) The committee to consider the documents referred to earlier of the Petitioner's father and his aunt and if need be to get them verified through vigilance enquiry along with the other documents on record.

(2) To consider the enquiry report in conjunction along with the Petitioners' submissions and all other material on record.

. The impugned order is set aside. The matter is remanded back to the committee for reconsideration and to dispose it of according to law at any rate not latter than six moths from today.

. Rule made absolute accordingly. No order as to

costs.

(S.J. VAZIFDAR J.) **(F.I.REBELLO,J.)**